HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.20272 of 2007

24.9.2007

Between

Akkudalai Sankara Rao ..Petitioner

AND

The Government of Andhra Pradesh, Social Welfare Department represented by its Principal Secretary and anther ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.20179 of 2007

Heard Sri S.Lakshmi Narayana Reddy, learned counsel for the petitioner and the learned Government Pleader for Social Welfare. With their consent, this writ petition is disposed of at this stage.

The writ petitioner has claimed that he belongs to Bentho Oriya community, which is recognized as a Scheduled Tribe. He has originally obtained the social status certificate vouching for his community from the then Tahsildar, Tekkali in Srikakulam District. Based on the strength of that certificate, he had claimed employment in the State Government. However, at the request of the employer, the District Collector, Srikakulam had embarked upon the verification of his social status claim. He concluded the entire issue through his proceedings dated 28.7.2007 holding that the petitioner does not belong to Bentho Oriya community and therefore, his claim as a member belonging to the Scheduled Tribe has been negatived. The social status certificate issued to the writ petitioner was also cancelled by the Collector through the same proceedings. Since the cancellation of social status certificate entails certain grave consequences including the prospects of his losing employment, the writ petitioner had approached the first respondent under Section 7 of the Andhra Pradesh Scheduled Castes, Scheduled Tribes, Backward Classes Regulation of Issue of Community, Nativity and Date of Birth Certificates Act,

1993 by way of an Appeal. The first respondent entertained the Appeal and while dealing with his application moved under Rule 10 of the Rules made under the aforementioned Act seeking stay of operation of the proceedings of the District Collector dated 28.7.2007, the first respondent through their memo dated 12.9.2007 has rejected the same. Against this order of the first respondent dated 12.9.2007, the present writ petition is filed.

While entertaining the Appeal, the first respondent passed the impugned order rejecting the stay of operation of the orders passed by the District Collector canceling the social status certificate issued in favour of the petitioner by the then Tahsildar, Tekkali. During the pendency of the Appeal, the appellate authority is only required to assess the balance of convenience between the parties. Undoubtedly, the social status certificate was issued in favour of the writ petitioner by the then Tahsildar, Tekkali in the year 1978. The writ petitioner has secured employment with the State Government on that basis. If the certificate has not been cancelled strictly in accordance with terms and the provisions contained in the Andhra Pradesh Scheduled Castes, Scheduled Tribes, Backward Classes Regulation of Issue of Community, Nativity and Date of Birth Certificates Act, 1993, then he will be entitled to have protection of the benefits, which he had already availed. If on the other hand, the writ petitioner has made a wrongful claim as member belonging to the Scheduled Tribe, the same is liable to be determined and brought to an end quickly.

In these set of circumstances, I consider that the balance of convenience rests at present in favour of the writ petitioner

only. I therefore set aside the impugned order dated 12.9.2007 and direct the respondents not to subject the writ petitioner to any penal consequences in pursuance of the orders passed by the District Collector in proceedings No.7469/97 C1 dated 28.7.2007 pending further orders on the Appeal preferred by him against the said orders, which Appeal was entertained by the first respondent and kept pending. However, the writ petitioner shall also not seek or secure any further benefits from now for himself or for any other dependent family member of his as members belonging to the scheduled tribe till such time, the Appeal is decided by the first respondent. It is only appropriate that the first respondent shall dispose of the Appeal at its earliest convenient time, at any rate on or before 30.4.2008.

With this, the writ petition stands disposed of. No costs.

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NOOTY RAMA MOHANA RAO.J.

24.9.2007
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